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PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of : Vulpitta, et al.  
For : ANTI-TELESCOPING  
ADHESIVE TAPE PRODUCT  
Serial No. : 09/711,478  
Filed : November 13, 2000  
Date of Last  
Office Action : June 10, 2002  
Examiner : Jane J. Rhee  
Group Art Unit : 1772  
Our Docket : MA-12957

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Elaine M. Rhee

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Assistant Commissioner for Patents  
Washington, D. C. 20231

**REQUEST FOR RECONSIDERATION**

Dear Sir:

Remarks

The Office Action of June 10, 2002 has been received and carefully studied. It appears all formal matters concerning claim language have been resolved. This leaves rejections on the art only.

As the Examiner is aware, the present application describes and claims an adhesive tape product. These products are exemplified by transparent tape used in offices and homes consisting of a long length of narrow clear plastic having a pressure sensitive adhesive on one side. The tape

is wound up on a core and the core is often carried upon a dispenser. Conventionally, the core is often a hollow rigid plastic cylinder. An acceptable roll of tape is cylindrical. A telescoped (defective) roll of tape has succeeding layers of tape laterally offset and is conical ("telescoped") rather than cylindrical. The present application describes and claims a tape product having a hollow cylindrical core with a compressible foam strip surrounding the core and the length of adhesive tape wrapped around the foam strip. Alternatively, a barrel shaped core is used. These structures, used alone or together, reduce telescoping.

Two references are used in the rejection of claims.

Downing 4,286,729 describes a tape dispenser package with a friction ring. Specifically, Downing is describing a product for dispensing individual markers arranged on a carrier web. The individual markers are applied to an object by positioning the dispenser over the object, drawing out a portion of the marker and releasing it from the carrier web by bending the carrier web around a sharp angle and applying the marker to the object. This is done while the markers and carrier web are held in a dispenser blister pack. Downing describes this technique and a problem associated with it:

"In order to be able to use this application technique, a relatively high level of restraining force must be applied to the roll of tape in the package. If sufficient restraining force is not maintained during the withdrawal step, tape can be advanced during the package withdrawal action to such an extent that the subsequent marker following the one being applied will move to a position in which proper dispensing is not possible. (Column 1, lines 54-62)."

Downing addresses the above problem as follows:

"One of the main objects of the invention is to provide a tape package of the

general type under consideration that includes a package element adapted to apply restraining force on the roll of tape during the dispensing action. Another is to provide a tape dispenser package having a cover element that carries a friction ring arranged to engage the inner surface of the core of a roll of tape enclosed in the package to exert restraining force as the roll of tape rotates. (Column 2, lines 38-46)."

Downing then describes the specific structure implementing the general structure just recited:

"In accordance with this invention, a ring 28 of frictional material is carried on the vertical wall 27 and engages the inner surface of the core 22 of the roll of tape. The friction ring 28 may be made of felt, plastic foam, thick paper, etc. (Column 3, lines 56-60)."

Downing states elsewhere "the adhesive tape and the carrier web are wound into roll-form and carried on a core 22. (Column 3, lines 44-45)."

Thus Downing is describing a tape product in which a backing carrying labels is wound upon a core. This tape on a core is then packaged in a blister pack dispenser. Downing describes the problem with this arrangement in that the tape on the core is not sufficiently restrained from free rotation. He then addresses this problem by providing a "friction ring" "between the core of the roll and the vertical wall [of the dispenser package]". Downing wants to restrain the tape and core from rotating too freely with respect to the package.

He therefore describes in detail placement of the friction material between the core and the package elements inside the core. Downing is not addressing the telescoping problem addressed by applicant. Downing never suggests placement of a foam between the tape core and the tape itself. Rather, the Downing foam is placed on the inside of the core, that is the side of the core opposite the tape.

Martin-Cocher, et al. 5,884,857 describes a method of making a stretched film used in packaging products for shipment and the like. The references does not describe an adhesive tape product. Rather, Martin-Cocher describes an industrial product used to stretch film and wrap the stretched film around multiple beverage bottles or around palletized loads. Martin-Cocher is not creating a tape product. Rather, Martin-Cocher is wrapping things in wide film wrappers for shipment or sale. Martin-Cocher is not at all concerned with adhesive tape products or the telescoping of a product aimed at consumers.

While Martin-Cocher does show a stretch roller (7) and a spool (9) having central cylindrical portions and conical end portions, these elements are not tape cores and these elements are not used to address the tape telescoping problem.

The Office Action first rejects claims 1, 5, 11, 13-14 as anticipated by Downing. Claim 1 specifically requires a hollow cylindrical tape core, a compressible foam strip surrounding the core and a length of adhesive tape wound around the foam strip. The claim specifically requires that the foam strip be between the core and the adhesive tape. Downing specifically teaches placing a friction ring which can be found inside the tape core where it bears is against a vertical wall of the container for the tape product. The function of the Downing friction ring is to provide resistance to rotational movement between the tape core and the housing. Thus Downing does not teach the positioning of a layer of foam material between the tape core and the body of tape wound upon the tape core. As this is required in claim 1, claim 1 is not anticipated. Claim 5 is dependent on claim 1 and is allowable therewith.

Claim 11 specifically requires a hollow cylindrical core for a tape product having a foam outer layer. Adhesive tape is then wound around this core. This structure requires that the foam be on the outside of the tape core, not on the inside of the tape core as is seen in Downing. Claim 11 is not anticipated by Downing and claim 13, dependent on Claim 11, is also not anticipated by Downing.

Claim 14, like claim 11, requires a tape core having an outer foam layer around which a body of tape is wound. Downing does not use a foam layer on the outside of the tape core but rather uses foam between the tape core and the wall upon which it rides. The foam is inside the tape core not on the outside. Downing does not anticipate claim 14.

In paragraph 4 of the Office Action, the assertion is made that Figure 1 of Downing shows “the foam (28) is between the tape core (27), and the tape wound upon the core (13).” It respectively submitted that this is an incorrect reading of Downing. The structure disclosed by Downing is a plastic sheet housing (blister pack) having a vertical wall 27 around which a friction element 28 is positioned upon which rides the inside surface of the tape core 22. The structure shown in Figures 1 and 2 of Downing are disclosed in detail in column 3 and the top half of column 4. At column 3 starting at line 56, Downing specifically describes a vertical wall 27, a friction ring 28 and the inner surface of the core 22. The friction ring 28 is carried on the vertical wall 27 and engages the inner surface of the core 22. The friction ring can be foam. Thus, Downing specifically describes positioning the foam between the vertical wall of the housing and the inner surface of the tape core. The element 27 is the vertical wall of the housing and is specifically identified as such in the

Downing disclosure. Moreover, the purpose of putting the foam layer where it is to retard the rotation of the tape riding on the tape core with respect to the housing. The foam frictional material can only perform this function if it is positioned between the inside of the tape core and the vertical wall of the housing.

Reference numeral 27 identifies the vertical wall of the housing, not the tape core which is accorded reference numeral 22. This is consistent with the illustrations, figures of Downing and is consistent with the written description in the specification of Downing. Positioning of the foam layer between the tape core and the body of tape contained upon the core is not described in Downing and would not perform the functions sought to be performed by Downing. It is respectfully submitted that Downing does not anticipate the claims as described above.

Claims 2-4, 6-10, 12 and 15 are next rejected over Downing in view of Martin-Cocher, et al.

Downing and Martin Cocher, et al. are addressing two different problems in two different industries using different materials. Downing describes a dispenser for labels carried upon a backing web and how to apply a frictional force preventing faulty dispensing. Martin-Cocher, et al. describes a stretched film and a method of using a stretched film to create packaged six packs of beverages and secured pallets of materials. Downing is describing a dispenser of relatively small size and how to unroll tape. Martin-Cocher is describing a large industrial wrapping process not a dispenser. Downing uses a tape backing carrying labels which appears to be unstretchable in its intended use. Martin-Cocher, et al. on the other hand is using a film which is stretched to about twice its length in the process he is describing to form something akin to a carton. Nothing in the teachings of either

of these references would suggest one to look at the other to answer a problem. Thus, there is no teaching to combine the references as suggested by the Examiner.

The Office Action asserts that Downing discloses an adhesive tape with a foam strip that has a uniform width about equal to the adhesive tape width and surrounds the core in a single layer. Applicant respectfully traverses. The foam layer in Downing is inside the core, it does not surround the core.

The Office Action asserts Martin-Cocher, et al. teaches a core having an outer surface bulging outwardly near the core's center giving it a barrel shape. Applicant respectfully traverses. Martin-Cocher, et al. does not teach a tape core. Rather Martin-Cocher teaches a roller used to stretch film and a spool upon which such stretched film is temporarily stored. This is not a tape cored. The Office Action points to lines 56-58 in column 4. The Martin-Cocher film is stretched to different degrees at different locations across its width. In the embodiment described at the passage indicated, the central portion is stretched more than the two edges. It is therefore temporarily stored on a spool having different diameters to accommodate the different lengths of film being wound. However, this is not a tape product sold on and dispensed from a core. Martin-Cocher, et al. does not disclose the structure attributed to it in the Office Action.

The Office Action asserts that Downing discloses that the foam should be thick enough to provide sufficient back tension with given vertical wall and core diameters. Applicant agrees. However, this functionality requires that the foam be placed between the housing wall 27 and the inside of the tape core 22. This is not what applicant is claiming.

The Office Action next states that it would have been obvious to provide Downing with a core having an outer surface bulging outwardly near the center in order to accommodate the elongation of the film and increase film thickness in the margins as taught by Martin-Cocher. Neither Downing nor applicant are using a tape with increased film thickness at its margins. Nothing in Downing suggests a carrier having other than a uniform thickness. Applicant, likewise, uses a plastic film of uniform thickness. There is therefore no reason to look to Martin-Cocher, et al. which, as the Office Action states, is accommodating a film having increased film thickness (and shorter length) in the margins as opposed to a uniform film thickness.

#### Summary

Neither Downing nor Martin-Cocher, et al. teach a foam layer between a tape core and the tape wound upon the core. Claims 2-4, 6, 8-10, 12 and 15 are therefore allowable over these references.

Downing does not describe a barrel shaped tape core. Martin-Cocher, et al. does not describe a tape core. Rather, it describes a machine for stretching a film so it is longer and thinner in the middle than in the margins. Because it is longer in the middle it is temporarily stored on a spool having a larger central portion. This is not a core for a tape of uniform thickness. As Downing is using a tape of uniform thickness, there is no need or motive to use a core resembling the spool of Martin-Cocher, et al. Only applicant teaches this structure. Using applicant's teachings as a basis to pick elements from prior art references and reconfigure them is impermissible hindsight reconstruction. As neither reference teaches the combination proposed or a barrel shaped tape core,

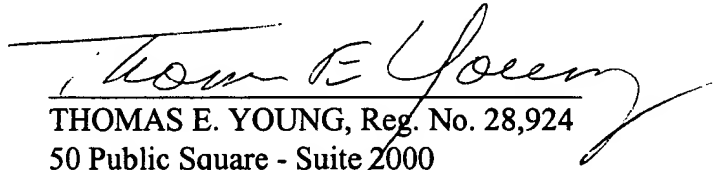


claims 6-10 are allowable.

It is respectfully submitted that the claims of the application as currently amended are allowable over the references cited either taken signally or in any combination taught by the references themselves. However, should the Examiner believe that further amendment to the claims is required, it is requested that she telephone applicant's attorney at the below stated number so that an appropriate amendment can be worked out over the phone.

Respectfully submitted,

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